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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,111	03/30/2001	Curtis Stokkeland		8386

7590

08/16/2004

Robert E. Kleve
1103 24th Ave. S.
Grand Forks, ND 58201

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 08/16/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,111

Applicant(s)

STOKKELAND, CURTIS

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: the following subtitles should be inserted within the specification:

Field of the Invention

Background of the Invention

Objects of the Invention

Summary of the Invention

Brief Description of the Drawings

Detailed Description of the Drawings

Change, "3 1" to -31- (pg. 4, line 11)

Additionally, regarding the specification, the following statements within the disclosure are not clear:

"...the motor and its shaft rotatably drives the gear' and thereby drives the gears 22 and 22'.." (pg. 3, line 10)

"the clockwise pivoting of the mounting plate 23' will to pivot the chain 21..." (pg. 3, lines 19, 20)

"...has an L shape arm 32' with it rear leg 32'..." (pg. 4, line 11)

Further, the specification fails to provide proper antecedent basis for the following terms within the claims:

-a support member

-detachably mounting

- main frame
- second frame
- first power means
- second power means
- first portion (of said main frame)
- second portion (of said main frame)
- second axis
- means to adapted to telescope
- pivotal frame

Appropriate correction is required.

Drawings

New corrected drawings are required in this application due to poor legibility as a result of poor lettering, lead lines and spacing. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the following reference characters are used to designate multiple elements of the invention:

- 23- main plate (pg. 3), mounting plate (pg. 3), cutting blade (pg. 10)
- 28'-upright wall (pg. 3), housing (9)
- 38'- cylinder (pg. 5), cylinder member (pg. 5), piston (g. 9)
- 39'- cylinder (pg. 5), cylinder member (pg. 5), piston (pg. 9)

42- rib (pg. 5) & frame (pg. 9)

All of the drawings should be carefully reviewed for legibility, clarity and proper correlation to reference characters used throughout the specification. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example, with regard to claims 1-4, the specification fails to provide support for a "second frame rotatably mounted" (clm. 1), "detachably mounting" (clm. 2), "...support member, means for said detachable mounting..." (clm. 3) and "...said frame has a first portion and a second portion with said

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second frame movable mounting...about a second axis perpendicular to said first pivotal axis..."

(clm. 4)

Additionally regarding claim 2, the specification fails to provide support for a "...pivot means on the apparatus to pivot the endless chain and cutting teeth about at least two axes perpendicular to one another..." Correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefinite concerns and are vague and indefinite. For example with regard to claim 1, the lack of a transitional word within the preamble of the claim renders a clear understanding of the claim difficult. For example it is not clear where the preamble of the claim ends and the body of the claim begins. The claim is written more in the form of an Abstract as opposed to a proper apparatus claim. Correction is required.

The following lack proper antecedent basis within the claim(s):

"said detachable mounting (clm. 3)

With regard to claim 4, the term, "first pivotal axis" (line 5) implies a plurality or more than one pivotal axes, however only one pivotal axis is claimed. Additionally, it is unclear what is meant by "...said second frame movable mounting to said main frame..." Correction is required.

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With regard to claim 5, it is not clear what is meant by, "detachable mounting of said main frame is to said support member is to said first portion of said main frame.

All of the claims should be reviewed for clarity, definiteness and antecedent basis concerns.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Milbourn (5,201,350). Milbourn discloses a remote controlled power chain saw having a frame (20) for attachment to a plurality of telescoping elongated booms (8, 12) wherein the booms are pivotally mounted on a power vehicle (2) or raising and lowering the chain saw while attached to an outermost one of the booms and for extending the chain saw forward relative to the vehicle by telescoping the booms, a second frame (42) rotatably mounted to the main frame, a housing mounted to the frame, a housing mounted to a second frame, a pivotal frame mounted to the second frame, said chain saw (76) with cutting teeth (fig. 1-3) mounted on a pivotal frame (80), power means (50, 84).

With regard to claims 3-5, Examiner notes that the bolt attachment of the main frame, support member act as means for detachable mounting to said main frame (col. 6, lines 52-68).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
August 2, 2004



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